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By

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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IN RE APPLICATION OF: **Lee Harland**

APPLICATION NO.: **10/055,106**

EXAMINER: **R. Shukla**

FILED: **January 23, 2002**

ART UNIT: **1632**

FOR: **Novel Polypeptide**  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

RESPONSE UNDER 37 CFR §1.111

Applicant hereby responds to the Office Action mailed December 22, 2003 in the subject patent application.

In response to the restriction requirement, Applicant provisionally elects the claims of Group I (i.e., claims 1-15 and 19-24) with traverse.

Applicant requests that the restriction requirement be reconsidered on the grounds that the Examiner has not shown that a serious burden would exist in examining all the claims. MPEP § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. §121); and (2) that the search and examination of the entire application cannot be made without serious burden. See MPEP §803.

The Examiner has not shown that the second requirement has been met, particularly with respect to Groups I and II. Specifically, the Examiner has not shown that it would be a serious burden to search and examine all Groups together, but particularly Groups I and II, since all claims are related to the novel GPCR polypeptides of the invention. For example, the claims of Group I are directed to polynucleotides encoding the GPCR polypeptides of Group II. Likewise, the polypeptides of Group II are encoded by the polynucleotides of Group I.

Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested for all claims, but particularly with respect to the claims of Groups I and II.

Respectfully submitted,

Date: Feb 3, 2004



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